

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KENNETH TAYLOR CURRY,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. C09-5673BHS-KLS

REPORT AND RECOMMENDATION

Noted for September 24, 2010

This matter is before the Court on plaintiff's failure to file an opening brief in response to the undersigned's order directing him to do so. (Dkt. #24). This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976).

On July 14, 2010, the undersigned issued an order setting the briefing schedule in this matter, directing plaintiff to file his opening brief by August 2, 2010. (Dkt. #23). On August 12, 2010, having received no opening brief or other response from plaintiff, the undersigned issued an order directing him to file one by no later than August 31, 2010, warning him that failure to do so by this date would result in a recommendation that his complaint be dismissed for failure to prosecute. To date, plaintiff still has not filed an opening brief or otherwise responded to the above two orders.

Accordingly, the undersigned hereby recommends that the Court dismiss the complaint without prejudice for failure to prosecute.

REPORT AND RECOMMENDATION - 1

Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure (“Fed. R. Civ. P.”) 72(b), the parties shall have **fourteen (14) days** from service of this Report and Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is directed set this matter for consideration on **September 24, 2010**, as noted in the caption.

DATED this 2nd day of September, 2010.


Karen L. Strombom
United States Magistrate Judge